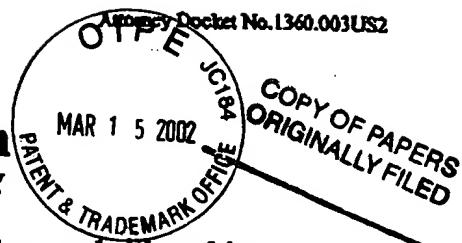




SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH



United States Patent Application

COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verify believe I am the original, first and joint inventor of the subject matter which is claimed and for which patent is sought on the invention entitled: **PLANT GENES INVOLVED IN DEFENSE AGAINST ATHOGENS.**

The specification of which was filed on June 23, 2001 as application serial no. 09/887,272.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with 37 C.F.R. ' 1.56 (attached hereto). I also acknowledge my duty to disclose all information known to be material to patentability which became available between a filing date of a prior application and the national or PCT international filing date in the event this is a Continuation-In-Part application in accordance with 37 C.F.R. 1.63(e).

I hereby claim foreign priority benefits under 35 U.S.C. ' 119(a)-(d) or 365(b) of any foreign application(s) or patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application or patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

No such claim for priority is being made at this time.

I hereby claim the benefit under 35 U.S.C. ' 119(e) of any United States provisional application(s) listed below:

<u>Application Number</u>	<u>Filing Date</u>
0/213,634	June 23, 2000
0/273,879	March 7, 2001
0/261,320	January 12, 2001
0/264,353	January 26, 2001
0/214,926	June 23, 2000

I hereby claim the benefit under 35 U.S.C. ' 120 or 365(c) of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C.

112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. ' 1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

<u>Application Number</u>	<u>Filing Date</u>	<u>Status</u>
9/887,271	June 22, 2001	Pending

I hereby appoint the following attorney(s) and/or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

Anglin, J. Michael	Reg. No. 24,916	Greaves, John N.	Reg. No. 40,362	Nelson, Albin J.	Reg. No. 28,650
Aronoff, Marvin S.	Reg. No. 35,052	Hazek, John L.	Reg. No. 36,154	Nicholson, Lea A.	Reg. No. 48,346
Arora, Suneel	Reg. No. 42,267	Harris, Robert J.	Reg. No. 37,346	Nielsen, Walter W.	Reg. No. 25,539
Beekman, Marvin L.	Reg. No. 38,377	Jackson Huebach, Katherine A.	Reg. No. 47,670	Padys, Danny J.	Reg. No. 35,635
Berdie, Raymond R.	Reg. No. P-50,769	Jurkovich, Patti J.	Reg. No. 44,813	Parker, J. Kevin	Reg. No. 33,024
Bianchi, Timothy E.	Reg. No. 39,610	Kalit, Jamie M.	Reg. No. 37,650	Perdok, Monique M.	Reg. No. 42,989
Billion, Richard E.	Reg. No. 32,836	Klima-Silberg, Catherine I.	Reg. No. 40,052	Perez, Andrew R.	Reg. No. 41,246
Black, David W.	Reg. No. 42,331	Kluth, Daniel J.	Reg. No. 32,146	Peterson, David C.	Reg. No. 47,857
Brennan, Thomas F.	Reg. No. 35,075	Lacy, Rodney L.	Reg. No. 41,136	Prost, William F.	Reg. No. 33,995
Brooks, Edward J., III	Reg. No. 40,925	Lemire, Charles A.	Reg. No. 36,198	Schumm, Sherry W.	Reg. No. 39,422
Chadwick, Robin A.	Reg. No. 36,877	LeMoine, Dana B.	Reg. No. 40,062	Schwegman, Michael L.	Reg. No. 25,816
Clark, Barbara J.	Reg. No. 38,107	Lundberg, Steven W.	Reg. No. 30,568	Scott, John C.	Reg. No. 38,613
Cline, Timothy B.	Reg. No. 40,957	Maki, Peter C.	Reg. No. 42,832	Seftin, Michael G.	Reg. No. 45,348
Cochran, David R.	Reg. No. 46,632	Malek, Peter L.	Reg. No. 44,894	Speler, Gary J.	Reg. No. 45,458
Dahl, John M.	Reg. No. 44,639	Mates, Robert E.	Reg. No. 35,271	Steffey, Charles E.	Reg. No. 25,179
Drake, Eduardo E.	Reg. No. 40,594	McCrackin, Ann M.	Reg. No. 42,858	Stordal, Leif T.	Reg. No. 46,251
Embreton, Janet E.	Reg. No. 39,665	McTavish, Hugh E.	Reg. No. 48,341	Terry, Kathleen R.	Reg. No. 31,884
Forrest, Bradley A.	Reg. No. 30,837	Mehrle, Joseph P.	Reg. No. 45,535	Tong, Vix V.	Reg. No. 45,416
Gamon, Owen J.	Reg. No. 36,143	Moore, Charles L., Jr.	Reg. No. 33,742	Vikrems, Ann S.	Reg. No. 37,748
Goritz, Gregory J.	Reg. No. 36,530	Mulker, Mark V.	Reg. No. 37,509	Woessner, Warren D.	Reg. No. 30,440
Gorych, Joseph F.	Reg. No. 41,791	Nama, Kish	Reg. No. 44,255		

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/organization/who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Schwegman, Lundberg, Woessner & Kluth, P.A. to the contrary. Please direct all correspondence in this case to Schwegman, Lundberg, Woessner & Kluth, P.A. at the address indicated below:

P.O. Box 2938, Minneapolis, MN 55402
Telephone No. (612)373-6900

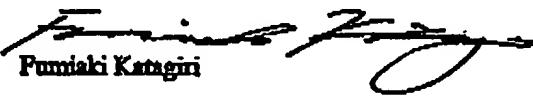
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of joint inventor number 1: Fumiaki Katagiri

Citizenship: Japan

Residence: San Diego, CA

Post Office Address: 4503 Ocean Valley Lane
San Diego, CA 92130

Signature: 

Date: Feb. 4, 2002

Full Name of joint inventor number 2: Yu-Ming Hou

Citizenship: Taiwan

Residence: San Diego, CA

Post Office Address: 3989-Notes Drive, #361 12608 Carmel Country Rd. #26
San Diego, CA 92122 92130 

Signature: 

Yu-Ming Hou

Date: 1-28-02

Additional inventors are being named on separately numbered sheets, attached hereto.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of joint inventor number 3 : Sheng Quan

Citizenship: China

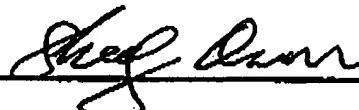
Post Office Address: 4178 Decoro Street #78
San Diego, CA 92122

Residence: San Diego, CA

Signature:

Sheng Quan

Date: 01/28/02



Full Name of joint inventor number 4 : Hur-Song Chang

Citizenship: Taiwan

Post Office Address: 11724 Ramsdell Court
San Diego, CA 92131

Residence: San Diego, CA

Signature:

Hur-Song Chang

Date: 01/28/02

Full Name of joint inventor number 5 : Tong Zhu

Citizenship: China USA

Post Office Address: 5260 Caminito Exquisito
San Diego, CA 92130

Residence: San Diego, CA

Signature:

Tong Zhu

Date: 1/28/2002



Full Name of joint inventor number 6 : Steve Whitham

Citizenship: United States of America

Post Office Address: 4025 Berkshire Ave.
Ames, IA 50010

Residence: Ames, IA

Signature:

Steve Whitham

Date: 1/18/02



{ Additional inventors are being named on separately numbered sheets, attached hereto.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of joint inventor number 7: Steve Goff

Citizenship: United States of America
Post Office Address: 1040 Calle Anacapa
Encinitas, CA 92024

Residence: Encinitas, CA

Signature:

Steve Goff

Date: 2/4/02

Full Name of joint inventor number 8: Bret Cooper

Citizenship: United States of America
Post Office Address: 3314 Via Alicante
La Jolla, CA 92037

Residence: La Jolla, CA

Signature:

Bret Cooper

Date: 1/31/02

Full Name of joint inventor number 9: Jane Glazebrook

Citizenship: United States of America
Post Office Address: 4503 Ocean Valley Lane
San Diego, CA 92130

Residence: San Diego, CA

Signature:

Jane Glazebrook

Date: 2/1/02

Full Name of joint inventor number 10: Wenqiong Chen

Citizenship: China
Post Office Address: 7514 Charming Drive, #916
San Diego, CA 92122
W.C. 4644 Corte Sol Del Dios
San Diego, CA 92130

Residence: San Diego, CA

Signature:

Wenqiong Chen

Date: 1/28/02

Additional inventors are being named on separately numbered sheets, attached hereto.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of joint inventor number 11: Zhiyi Xie

Citizenship: China

Residence: San Diego, CA

Post Office Address: 5032 Ashberry Road
Carlsbad, CA 92008

Signature: Zhiyi Xie

Date: 1/18/2002

Full Name of joint inventor number 12: Yi Tao

Citizenship: China

Residence: La Jolla, CA San Diego, CA

Post Office Address: 3851 F Miramar Street 8258 Camino Huerta
La Jolla, CA 92037 San Diego, CA 92122

Signature: Yi Tao

Date: 1/21/02

Full Name of joint inventor number 13: Guangzhou Zou

Citizenship: China

Residence: San Diego, CA

Post Office Address: 10972 Cloverhurst Way
San Diego, CA 92130

Signature: Guangzhou Zou

Date: 4-02-02

Full Name of inventor:

Citizenship:

Residence:

Post Office Address:

Signature: _____

Date: _____

1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.